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19 **UNITED STATES DISTRICT COURT**  
20 **SOUTHERN DISTRICT OF CALIFORNIA**

21 **CASEY BLOTZER,  
22 INDIVIDUALLY AND ON  
23 BEHALF OF ALL OTHERS  
SIMILARLY SITUATED,**

24 Plaintiff,

25 v.

26 **NORTHSTAR LOCATION  
27 SERVICES, LLC,**

28 Defendant.

Case No.: '13CV2213L BGS

**CLASS ACTION COMPLAINT FOR  
DAMAGES**

**JURY TRIAL DEMANDED**

1       1. CASEY BLOTZER (“Plaintiff”) brings this Class Action Complaint  
 2 for damages, injunctive relief, and any other available legal or equitable remedies,  
 3 resulting from the illegal actions of NORTHSTAR LOCATION SERVICES,  
 4 LLC (“Defendant”), in negligently and/or willfully contacting Plaintiff on  
 5 Plaintiff’s cellular telephone, in violation of the Telephone Consumer Protection  
 6 Act, 47 U.S.C. § 227 et seq., (“TCPA”), thereby invading Plaintiff’s privacy.  
 7 Plaintiff alleges as follows upon personal knowledge as to herself and her own  
 8 acts and experiences, and, as to all other matters, upon information and belief,  
 9 including investigation conducted by his attorneys.

10      2. The TCPA was designed to prevent calls and text messages like the  
 11 ones described herein, and to protect the privacy of citizens like Plaintiff.  
 12 “Voluminous consumer complaints about abuses of telephone technology – for  
 13 example, computerized calls dispatched to private homes – prompted Congress to  
 14 pass the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).

15      3. In enacting the TCPA, Congress intended to give consumers a choice  
 16 as to how corporate entities may contact them, and made specific findings that  
 17 “[t]echnologies that might allow consumers to avoid receiving such calls are not  
 18 universally available, are costly, are unlikely to be enforced, or place an  
 19 inordinate burden on the consumer.     TCPA, Pub.L. No. 102–243, § 11. In  
 20 support of this, Congress found that

21           [**b**]anning such automated or prerecorded telephone  
 22 calls to the home, except when the receiving party  
 23 consents to receiving the call or when such calls are  
 24 necessary in an emergency situation affecting the health  
 25 and safety of the consumer, is the only effective means  
 26 of protecting telephone consumers from this nuisance  
 27 and privacy invasion.

1 Id. at § 12; see also *Martin v. Leading Edge Recovery Solutions, LLC*, 2012 WL  
 2 3292838, at\* 4 (N.D.Ill. Aug. 10, 2012) (citing Congressional findings on  
 3 TCPA's purpose).

4       4. Congress also specifically found that “the evidence presented to the  
 5 Congress indicates that automated or prerecorded calls are a nuisance and an  
 6 invasion of privacy, regardless of the type of call....” Id. at §§ 12-13. See also,  
 7 *Mims*, 132 S. Ct. at 744.

8       5. As Judge Easterbrook of the Seventh Circuit recently explained in a  
 9 TCPA case regarding calls to a non-debtor similar to this one:

10                  The Telephone Consumer Protection Act ... is well  
 11 known for its provisions limiting junk-fax  
 12 transmissions. A less-litigated part of the Act curtails  
 13 the use of automated dialers and prerecorded messages  
 14 to cell phones, whose subscribers often are billed by the  
 15 minute as soon as the call is answered—and routing a  
 16 call to voicemail counts as answering the call. An  
 17 automated call to a landline phone can be an  
 18 annoyance; an automated call to a cell phone adds  
 19 expense to annoyance.

20                  *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7th Cir. 2012).

### JURISDICTION AND VENUE

21       6. This Court has federal question jurisdiction because this case arises  
 22 out of violations of federal law. 47 U.S.C. §227(b); *Mims v. Arrow Fin. Servs.,*  
 23 *LLC*, 132 S. Ct. 740 (2012).

24       7. Venue is proper in the United States District Court for the Southern  
 25 District of California pursuant to 18 U.S.C. § 1391(b) and 1441(a) because  
 26

1 Defendant is subject to personal jurisdiction in the County of San Diego, State of  
2 California.

3 **PARTIES**

4 8. Plaintiff is, and at all times mentioned herein was, a citizen and  
5 resident of the State of California. Plaintiff is, and at all times mentioned herein  
6 was, a “person” as defined by 47 U.S.C. § 153 (10).

7 9. Plaintiff is informed and believes, and thereon alleges, that  
8 Defendant is, and at all times mentioned herein was, a Limited Liability Company  
9 whose State of Incorporation and principal place of business is in the State of  
10 New York. Defendant, is and at all times mentioned herein was, a limited  
11 partnership and is a “person,” as defined by 47 U.S.C. § 153 (10). Plaintiff  
12 alleges that at all times relevant herein Defendant conducted business in the State  
13 of California and in the County of San Diego, and within this judicial district.

14 **FACTUAL ALLEGATIONS**

15 10. At all times relevant, Plaintiff was a citizen of the State of California.  
16 Plaintiff is, and at all times mentioned herein was, a “person” as defined by 47  
17 U.S.C. § 153 (10).

18 11. Defendant is, and at all times mentioned herein was, a limited  
19 liability company and a “person,” as defined by 47 U.S.C. § 153 (10).

20 12. At all times relevant Defendant conducted business in the State of  
21 California and in the County of San Diego, within this judicial district.

22 13. Beginning sometime on or around July of 2013, Defendant began to  
23 utilize Plaintiff’s cellular telephone number, ending in 3426, in an attempt to  
24 collect an alleged debt that is not owed by Plaintiff, but in fact allegedly owed by  
25 someone else.

26 14. On at least one (1) occasion, that being on July 15, 2013 at  
27 approximately 5:33pm PST, Defendant placed a telephone call to Plaintiff’s

1 cellular telephone seeking to collect the alleged debt owed by someone other than  
2 Plaintiff.

3       15. The calls Defendant placed to Plaintiff's cellular telephone were  
4 placed via an "automatic telephone dialing system," ("ATDS") as defined by 47  
5 U.S.C. § 227 (a)(1) as prohibited by 47 U.S.C. § 227 (b)(1)(A).

6       16. This ATDS has the capacity to store or produce telephone numbers  
7 to be dialed, using a random or sequential number generator.

8       17. When Plaintiff did not answer Defendant's telephone call, Defendant  
9 left a voice message on Plaintiff's cellular telephone.

10      18. Defendant's July 15, 2013 voice message left on Plaintiff's cellular  
11 telephone utilized an "artificial or prerecorded voice" as prohibited by 47 U.S.C.  
12 § 227(b)(1)(A)

13      19. The telephone number that Defendant, or its agents, called was  
14 assigned to a cellular telephone service for which Plaintiff incurs a charge for  
15 incoming calls pursuant to 47 U.S.C. § 227 (b)(1).

16      20. These telephone calls constituted calls that were not for emergency  
17 purposes as defined by 47 U.S.C. § 227 (b)(1)(A)(i).

18      21. As Plaintiff does not owe the alleged debt owed, does not owe any  
19 debts to Defendant and never provided Defendant with her cellular telephone  
20 number, Defendant's calls were placed without Plaintiff's prior express consent  
21 pursuant to 47 U.S.C. § 227 (b)(1)(A).

22      22. These telephone calls by Defendant, or its agents, violated 47 U.S.C.  
23 § 227(b)(1).

24            ///

25            ///

26            ///

## **CLASS ACTION ALLEGATIONS**

23. Plaintiff brings this action on behalf of herself and on behalf of and all others similarly situated (“the Class”).

24. Plaintiff represents, and is a member of, the Class, consisting of All persons within the United States who received any telephone call/s from Defendant or its agent/s and/or employee/s to said person's cellular telephone made through the use of any automatic telephone dialing system and/or an artificial or pre-recorded voice and such person had not previously consented to receiving such calls within the four years prior to the filing of this Complaint.

25. Defendant and its employees or agents are excluded from the Class. Plaintiff does not know the number of members in the Class, but believes the Class members number in the thousands, if not more. Thus, this matter should be certified as a Class action to assist in the expeditious litigation of this matter.

26. Plaintiff and members of the Class were harmed by the acts of Defendant in at least the following ways: Defendant, either directly or through its agents, illegally contacted Plaintiff and the Class members via their cellular telephones, thereby causing Plaintiff and the Class members to incur certain cellular telephone charges or reduce cellular telephone time for which Plaintiff and the Class members previously paid, and invading the privacy of said Plaintiff and the Class members. Plaintiff and the Class members were damaged thereby.

27. This suit seeks only damages and injunctive relief for recovery of economic injury on behalf of the Class, and it expressly is not intended to request any recovery for personal injury and claims related thereto. Plaintiff reserves the right to expand the Class definition to seek recovery on behalf of additional persons as warranted as facts are learned in further investigation and discovery.

28. The joinder of the Class members is impractical and the disposition of their claims in the Class action will provide substantial benefits both to the

1 parties and to the court. The Class can be identified through Defendant's records  
2 or Defendant's agents' records.

3 29. There is a well-defined community of interest in the questions of law  
4 and fact involved affecting the parties to be represented. The questions of law  
5 and fact to the Class predominate over questions which may affect individual  
6 Class members, including the following:

- 7 a) Whether, within the four years prior to the filing of this Complaint,  
8 Defendant or its agents placed any calls to the Class (other than a  
9 call made for emergency purposes or made with the prior express  
10 consent of the called party) to a Class member using any automatic  
11 dialing system and/or an artificial or prerecorded voice to any  
12 telephone number assigned to a cellular phone service;
- 13 b) Whether Plaintiff and the Class members were damaged thereby, and  
14 the extent of damages for such violation; and
- 15 c) Whether Defendant and its agents should be enjoined from engaging  
16 in such conduct in the future.

17 30. As a person that received calls from Defendant via an automated  
18 telephone dialing system and an artificial or prerecorded voice without Plaintiff's  
19 prior express consent, Plaintiff is asserting claims that are typical of the Class.  
20 Plaintiff will fairly and adequately represent and protect the interests of the Class  
21 in that Plaintiff has no interests antagonistic to any member of the Class.

22 31. Plaintiff and the members of the Class have all suffered irreparable  
23 harm as a result of the Defendant's unlawful and wrongful conduct. Absent a  
24 class action, the Class will continue to face the potential for irreparable harm. In  
25 addition, these violations of law will be allowed to proceed without remedy and  
26 Defendant will likely continue such illegal conduct. Because of the size of the  
27  
28

1 individual Class member's claims, few, if any, Class members could afford to  
2 seek legal redress for the wrongs complained of herein.

3 32. Plaintiff has retained counsel experienced in handling class action  
4 claims and claims involving violations of the Telephone Consumer Protection  
5 Act.

6 33. A class action is a superior method for the fair and efficient  
7 adjudication of this controversy. Class-wide damages are essential to induce  
8 Defendant to comply with federal law. The interest of Class members in  
9 individually controlling the prosecution of separate claims against Defendant is  
10 small because the maximum statutory damages in an individual action for  
11 violation of privacy are minimal. Management of these claims is likely to present  
12 significantly fewer difficulties than those presented in many class claims.  
13

14 34. Defendant has acted on grounds generally applicable to the Class,  
15 thereby making appropriate final injunctive relief and corresponding declaratory  
16 relief with respect to the Class as a whole.

17 **FIRST CAUSE OF ACTION**  
18 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER**  
19 **PROTECTION ACT**  
20 **47 U.S.C. § 227 ET SEQ.**

21 35. Plaintiff incorporates by reference all of the above paragraphs of this  
Complaint as though fully stated herein.

22 36. The foregoing acts and omissions of Defendant constitute numerous  
23 and multiple negligent violations of the TCPA, including but not limited to each  
24 and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

25 37. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et  
26 seq, Plaintiff and The Class are entitled to an award of \$500.00 in statutory  
27 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).  
28

38. Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

**SECOND CAUSE OF ACTION  
KNOWING AND/OR WILLFUL VIOLATIONS OF THE  
TELEPHONE CONSUMER PROTECTION ACT  
47 U.S.C. § 227 ET SEQ.**

39. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

40. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

41. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq, Plaintiff and The Class are entitled to an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(C).

42. Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

## **PRAYER FOR RELIEF**

Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and The Class members the following relief against Defendant:

**FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATIONS OF THE  
TCPA, 47 U.S.C. § 227 ET SEQ.**

43. As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each Class member \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

44. Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.

45. Any other relief the Court may deem just and proper.

**SECOND CAUSE OF ACTION FOR KNOWING AND/OR WILLFUL  
VIOLATIONS OF THE TCPA, 47 U.S.C. § 227 ET SEQ.**

46. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each Class member \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(C).

47. Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.

48. Any other relief the Court may deem just and proper.

## TRIAL BY JURY

49. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiffs are entitled to, and demand, a trial by jury.

Respectfully submitted this 16th day of September, 2013.

## LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman  
Todd M. Friedman  
Law Offices of Todd M. Friedman  
Attorney for Plaintiff